UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	X	
BETHANIA RODRIGUEZ,	:	ECF
Individually and on Behalf of All Other	:	15 Civ. 9817(VEC)
Persons Similarly Situated,	:	
TM :	:	
Plaintiff,	:	
-against-	:	
-agamst-	:	
NEW YORK FOUNDATION FOR SENIOR	:	
CITIZENS HOME ATTENDANT SERVICES,INC.,	:	
LINDA R. HOFFMAN and JOHN DOES #1-10,	:	
5.0.1	:	
Defendants.	:	

SUR REPLY MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION TO COMPEL ARBITRATION AND DISMISS THE ACTION

The evidence has not shown that the Union members ratified the MOA amending the collective bargaining agreement to include an arbitration provision. See Rodriguez Sur Reply Declaration. Accordingly, the MOA is not in effect. *See Walker v. Consolidated Freightways, Inc.*, 930 F.2d 376, 380-81 (4th Cir. 1991) (holding that Union's failure obtain ratification of amendment to collective bargaining agreement constituted a breach of the duty of fair representation and rendered the amendment unenforceable).

Furthermore, even if the amendment including the arbitration provision is deemed enforceable, it is enforceable only prospectively. See Opposition Brief at pp. 19-21.

For the foregoing reasons, Plaintiffs request that Defendant's motion to compel arbitration and dismiss the complaint be denied in its entirety and that if Plaintiff's motion to compel arbitration is granted, that the Court stay the action pending the completion of arbitration.

Dated: New York, New York

June 22, 2016

LAW OFFICE OF WILLIAM COUDERT RAND

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WILK

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